



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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April 22, 2015

William J. Fehribach Jr.
107 Dean Alley
Henryville, IN 47126

Re: Formal Complaint 15-FC-71; Alleged Violation of the Access to Public Records Act by Clark County Sheriff's Department

Dear Mr. Fehribach,

This advisory opinion is in response to your formal complaint alleging Clark County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Department has not responded to your complaint. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 5, 2015.

BACKGROUND

Your complaint dated February 25, 2015 alleges Clark County Sheriff's Department violated the Access to Public Records Act by failing to provide the records you requested.

On January 28, 2015 you attempted to obtain police reports from the Department. However, you were informed you could not be provided any blog reports because of the new system. This is despite previous instances where you did receive reports.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. The Clark County Sheriff's Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Department's public records during regular business hours



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unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

In this particular situation, the department did attempt to provide you with the records requested. You admit only one of your requests was not fulfilled. The reason given was the new system made it impossible to retrieve the file. If this is indeed correct, the Department has met its burden under the APRA. APRA does not require an agency to provide records it does not have or cannot access. While a law enforcement agency is not required to provide investigatory records, it must provide a daily log of certain activities under Ind. Code § 5-14-5(c).

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor